Edn. & P H. **(1941) Department.**

MS. **SERIES.**

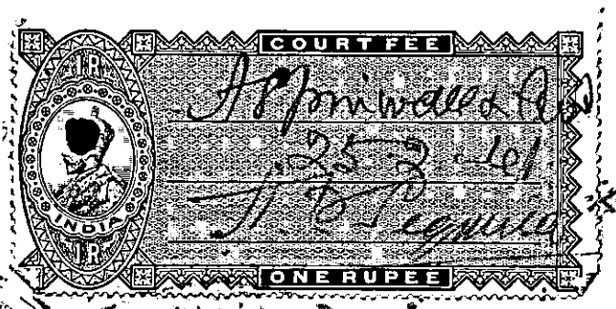
G.O. No. 2352,

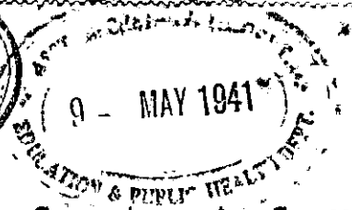
655

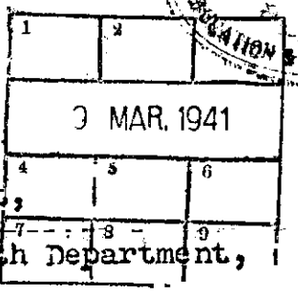
Dated. 4 – 6 – 1941

[Despatch Abstract.]

Licence – Mangalore Municipality – Cashewnut operations of Messrs. Aspinwall & Co. at Urwa – Interference with the Council's decision – declined.







7397

The Secretary to Government,
Education & Public Health Department,
Fort St. George, Madras.

Appeal petition of Messrs. Aspinwall & Co. Ltd., Mangalore, through its Assistant Manager, A.B.H.Dickson.

S i r,

Being aggrieved by the proceedings of the Mangalore Municipal Council in its resolution No.5, dated 5.2.1941 communicated to us by the Executive Authority of the Municipality (true copy of the communication enclosed) we beg to make the following representation:-

1. The firm of Messrs. Aspinwall & Co., is a trading corporation of standing having its head office in Cochin and branch offices on the West Coast of India.

2. The Mangalore branch of the firm has been engaging itself mainly in the coffee trade till recently. However last year we decided to engage ourselves in the cashew trade and industry and accordingly in October last, we started a cashew factory in Urwa, a suburb of Mangalore, on an experimental basis.

3. The premises of Saldanha & Sons in Urwa were engaged by us for the purpose, and are within Municipal limits. But as no cashew roasting operations are allowed within Municipal limits we engaged the premises of Manekjee Nowrojee situated just outside the Municipal limits and within close proximity of Saldanha & Sons, for roasting purposes.

Revenue dept

ndt. 7397-1 E(1)H dt 6-3-41

Returned to the Secretariat for affixing C.F stamps to the value of 8 annas.

N Subramaniam
27.3/41

Deputy Secretary

4. While the roasting operations are carried on in the premises of Maneckjee Nowrojee the other operations namely, shelling, peeling, drying and packing are done in the premises of Saldanha & Sons, which, as already submitted, are situated within Municipal limits.

5. The Mangalore Municipality by its resolution referred to above appears to have taken exception to the 'burning' operations in the premises of Saldanha & Sons. The 'burning' operations can only refer to the process of heating and drying the kernels with the aid of fire to render them fit for peeling.

6. The Municipal Council in prohibiting the burning operations purports to act under the directions contained in a memorandum No.D.T.P.3211/40 dated 10.12.1940 received from the Ex-officio Director of Town Planning. This memorandum directs the Municipal Council to take steps for the removal to an industrial area of the cashew nut factory at Urwa. We may point out that this memorandum of the Director of Town Planning is in direct contradiction to the recommendation of Government in its memorandum No.8005-4-El-P.H. dated 12.6.1940, permitting the continuance of this and 19 other factories outside industrial area on such terms and conditions as the Municipal Council may impose. It is strange that the Municipal Council should have allowed the Memorandum of the Director of Town Planning to supersede the Government Order.

7. In this connection, we venture to point out that the Municipal Council may not have placed all the facts before the Director of Town Planning. A perusal of the memorandum of the Director of Town Planning (copy enclosed) does not show that the Government Memorandum permitting the continuance of the Factory at Urwa has been brought to the notice of the Director of Town Planning. In any case the Municipal Council ought not to have ignored the recommendation of the Government in the matter.

8. That the locality in which the factory is situated is a non-industrial area is not disputed. But in view of the exemption granted to this factory and 19 other factories in the Government Memo referred to above, the Municipal Council ought not to have singled out this one factory out of the twenty for removal and that too without sufficient grounds. If at all, the Municipal Council would have been well-advised to impose restricti if any such restrictions were necessary, in accordance with the recommendations contained in the said Government Order. We may however point out that no restrictions were necessary in this case as all precautions were being taken to prevent smoke nuisance from the fire used for heating kernels.

9. The precautions referred to in the preceeding para consists of tall chimnies about 40 feet high put up by us for the escape of smoke. The fire used for heating the kernels, is not a large one and all the smoke escapes through the chimnies. The objections from a neighbouring owner, Mrs. Chandrana Bai, appear to be rather sentimental than real. The factory has been in existence for the last 15 years or more, but the house of the complainant was constructed only a few years ago.

10. We also beg to point out that the name 'factory' is not strictly applicable to the said premises as no machinery is used in the premises and the heating operation is done in hot ovens heated by fire. To carry on such operations no license is necessary and in fact no license has been applied for by us nor has the Municipality insisted upon our taking out a license at any time. The operation of heating kernels cannot be said to be a dangerous or offensive trade for which a license is necessary under section 249 of the District Municipalities Act or under any by-laws framed by the Muncipality. In fact the resolution of the Council does not state that the operations carried on in the premises are dangerous or offensive or that they contravene any provisions of the District Municipalities Act or any by-laws of the Council.

11. Even while giving effect to the directions of the Director of Town Planning, the Municipal Council and the Executive Authority of the Municipality have proceeded in dis-regard of the instructions laid down in G.O.No.4054, P.H. dated 3.9.1940 to which specific reference was made by the Director of Town Planning in his Memo D.T.P.3211/40. Contrary to the said instructions the Company has been directed to stop all burning operations forthwith, without sufficient notice, which must result in dislocation of business and great loss and hardship to the Company as well as to hundreds of workers engaged as coolies, unless the Government comes to the rescue by staying the order of the Executive Authority of the Mangalore Municipality pending enquiry into this appeal.

12. For the reasons stated above, we beg to submit that the resolution of the Mangalore Municipal Council and the order of the Executive Authority is ultra vires as being not in accordan with the provisions of the District Municipalities Act or any by-laws framed thereunder.

We therefore pray that the Government may be pleased to call for all the connected papers and after examining the same to quash the proceedings of the Municipal Council referred to above and to permit Messrs. Aspinwall & Co. Ltd., to carry on their operations in their Urwa Factory as usual.

For which act of justice, we shall ever remain grateful,

We beg to remain,

S i r,

Your most obedient servants,

Mangalore,
24th February 1941

PER. PRO. ASPINWALL & Co., LTD.,

Assistant Manager.

Encls.2.

Extract from the proceedings of the Mangalore Municipal Council meeting held on 5.2.1941

Resolution No.5

p19 c Read:- Memo dated 10.12.1940 No.D.T.P. 3211/40 from the Director of Town Planning, Madras, directing steps to be taken for the removal to an industrial area of the Cashewnut Factory at Urva, of M/s. Aspinwall & Co., Govt. Memo 8005-4-El-P p13 c dated 12.6.1940 stating that the Govt. have no objection to the continuance of the above and such 19 other factories, which are outside industrial area, and the connected file of papers.

Immediate steps to be taken to remove the factory from the present locality to an industrial area as directed by the Ex-officio Director of Town Planning. The Executive also to tak urgent steps to stop forthwith all burning operations at the factory.

Sd. L.C.Pais,
Vice Chairman,
Municipal Council, in charge

/ True copy /

14 True copy forwarded to the Manager, Messrs. Aspinwall & Co., Mangalore. He is informed that he should stop all burning operations on the factory premises forthwith.

Municipal Health Office,
Mangalore, 14th February 1941.

Sd.....
Executive Authority,
Mangalore Municipality.
14.2.1941

To
The Manager, M/s. Aspinwall & Co.,
Mangalore.

Copy to S.I.I. for service and report.

Memorandum of the Ex-Officio Director of Town Planning, Madras.

S.Ranganathan? Esq., O.B.E., I.C.S.,

D.T.P. 3211/40 dated 10th December 1940.

Licence - Mangalore Municipality - Cashew.nut Factory in the midst of residential area - Kodial bail West Ward Town Planning Scheme - Complaining nuisance -prohibition.

Petition from Rao Sahib K.R.Tomabat on behalf of Mrs.ULLal Chandranana Bai residing at bolur, Mangalore, to the Ex-Officio Director of Town Planning and Inspector of Municipal Councils & Local Boards, Madras.

From the Commissioner, Mangalore Municipality to the Director of Town Planning & Inspector of Municipal Councils & Local Boards, Endt. No. H2. 2923/40 dated 23-11-1940.

The Cashew nut Factory in T.S.No. 829 at Bolur, Mangalore, lies in the midst of a residential area, from the reports of the municipal Commissioner and Health Officer, it is observed that it is detrimental to the health and amenity to permit the working of the factory in the place. Further, the site of the factory falls within the Kodialbail West Ward Town Planning Scheme area and the retention of the factory in the plabe would be prejudicial to proper development of the area and contrary to the interests of the Scheme.

In as much as the municipality has already notified the areas for industrial purposes, steps should betaken by the Municipal council to see that this factory is removed to an industrial area as soon as possible, in accoradance with the instructions laid down in paragraph 2 and 5 of G.O. No. 4054 P.H., dated 3-9-40.

(Sd) X X X X

for Ex-Officio Director of Town Planning, Madras.

To the commissioner, Mangalore Municipality.

Copy to the Director of Public Health , Madras,

GOVERNMENT OF MADRAS.

EDUCATION AND PUBLIC HEALTH DEPARTMENT.

(G)

Memorandum No.8005-4-E1-P.H., dated 12th June 1940.

Factories - Mangalore Municipality - Factories outside industrial area -.

From the Commonwealth Trust, Limited, Calicut, Malabar A/1549, dated 27th February 1940.

From the Commissioner, Mangalore Municipality C- 2777-H2-40, dated the 9th May 1940.

The Government have no objection to the continuance in the present sites, of the work.places (twenty in number) specified in the list received with the letter of the Commissioner, Mangalore Municipality No. C.2777.H2-40 dated 9th May 1940. It is open to the municipal council to impose any conditions the council thinks necessary under section 251 of the Madras District Municipalities Act , 1920.

R.V.Krishna Ayyar,

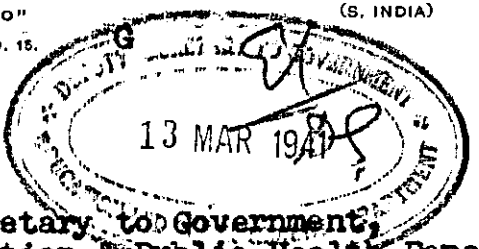
Secretary to Government.

To the Commissioner, Mangalore Municipality through the Chairman

S[illegible]NWALL & Co., LTD.

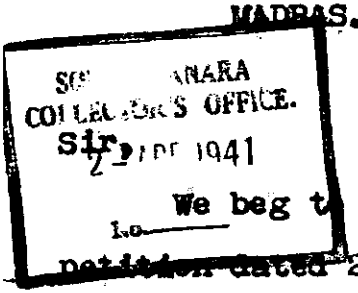
GRAPHIC ADDRESS: "SPINWALCO"
TELEPHONE NO. 15.

MANGALORE 11th March 1941
(S. INDIA)



9635

The Secretary to Government,
Education & Public Health Department,
Fort St. George,
MADRAS.



Sir,

We beg to re-submit our appeal petition dated 24th February 1941 after affixing an additional 8 As. Court Fee stamp.

We have the honour to be,
Sir,
Your most obedient servants,
FOR SPINWALL & Co LTD.

AHD/PR

Assistant Manager.

C No. 9635, From Messrs. Aspinwall & Co Ltd. Mangalore dt 11-3-41

5/1913

News

9635- Pt dt 1873/41

License - Mangalore N.d. Cashewnut factory at Kuva - Removal of - appeal.

DT/1873

Referred to the Commr. of the Mangalore Dly. for early remarks. The reply should be submitted through the Collr. of S. Kanara, and should reach the Govt in before 5/4/41

WS 1873

17/3

WS 17.3.41

early remarks

To the Commr. of Mangalore Dly

this the C/c letter of

is req to be noted

Collr. of S. Kanara

Note

The appeal is against the resolution of the Council in p 5 of

R on 5/4

17/3

WS 17.3.41

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Received here at _____ H. _____ M.

ASST. SECRETARY TO GOVT. EDUCATION AND PUBLIC HEALTH DEPT. 22 MAR 1941

MADRAS G.P.O. 22 MAR 41

11079

O KI MANGALORE KNA 20 36 EDHEALTH MADRAS

= REFERENCE OUR MEMORIAL DATED TWENTYFOURTH FEBRUARY

REQUEST EARLY ORDERS AS MUNICIPAL COUNCIL INSISTS

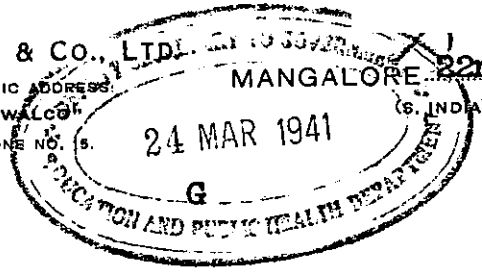
IMMEDIATE CLOSURE OF OUR FACTORY CAUSING SERIOUS

DISLOCATION BUSINESS TO STOP ALTERNATIVELY REQUEST STAY

NCILS ACTION PENDING DISPOSAL MEMORIAL = ASPINWALCO. =

al Chand & Sons, Printers, Calcutta—No. 447 R (B-95)—24-5-40—50,000 pks.

ASPINWALL & Co., LTD.
TELEGRAPHIC ADDRESS: "ASPINWALCO"
TELEPHONE NO. 5.
MANGALORE (S. INDIA)



22nd March 1941

11183

The Secretary to Government,
Education and Public Health Department,
Fort St. George,
Madras.

S i r,

With reference to our memorial dated 24th February 1941 the Municipal Commissioner has informed us that he cannot defer action any longer and we have accordingly addressed you by telegram as follows:-

"Reference our memorial dated twenty-fourth February request early orders as Municipal council insists immediate closure of our factory causing serious dislocation business stop alternatively request stay councils action pending disposal memorial - Aspinwalco"

Stay order under wire today. despatch at once

We have the honour to be,
Sir,
Your most obedient servants,
for ASPINWALL & Co., LTD.,

AHD/PR

24/3

Asst Manager

Memo 9635-2 H&P 24/3/41

License. Mangalore Old cashew-nut factory. Removal of -

Copy of telegram received from Messrs. Aspinwal and Co., Mangalore is Commd. to the Commr. of the Mangalore Dly.. ~~In the circumstances reported~~. The Govt. direct that the order of the Dl Commr insisting on the immediate closure of the cashewnut factory be stayed pending their orders on the appeal preferred by the Company. ~~dated 11-3-41.~~

6 22/3

Hrs 24/3.

Commr. Mangalore Dly. this the 22.3.41.

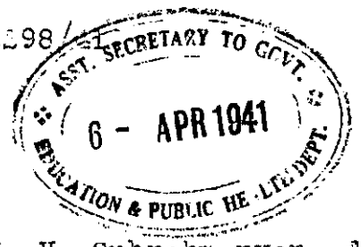
(L & T) Supdt

Offer of S. Kamara Messrs. Aspinwal & Co Mangalore

24/3/41

Ref. A-2298/41. South Kanara Collector's Office,

Mangalore, 3rd April 1941.



From

M. V. Subrahmanyan, Esq., I.C.S.,

Collector of South Kanara.

13483

To

The Secretary to Government,

Education & Public Health Department,

Madras.

Sir,

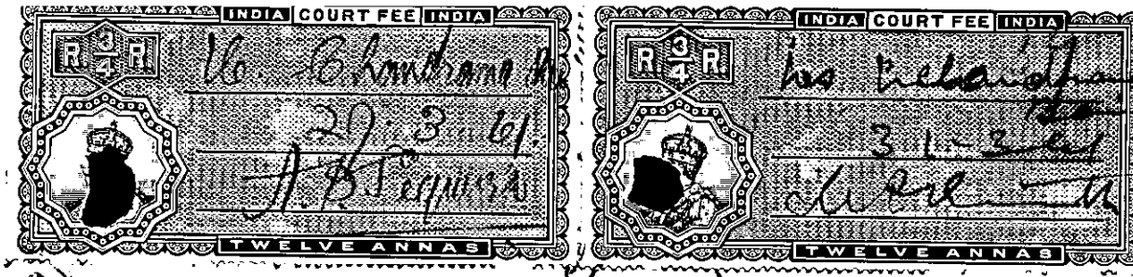
Lic[illegible]e - Mangalore Municipal Council - Cashewnut factory at Urve - Removal of - Remarks on the appeal - Interim report - submitted.

Ref: Govt. Memo.(E & P.H.Dept.) No.9635-1-El-P.H., dated 18.12.1941.

The report of the Commissioner, Mangalore Municipality on the above subject has been received, but I am calling for further information and I propose to inspect the locality after getting it. I shall send my report after inspection of the locality.

For Collector.

3.4.41



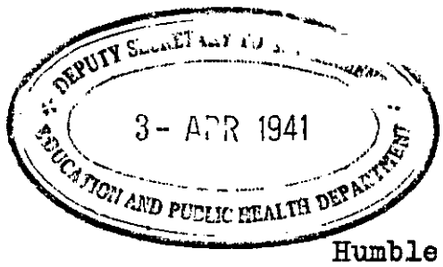
To

The Secretary to Government of Madras, 12970

Education & Public Health Department.

Fort St. George.

Madras.



Humble Memorial of

Mrs. U.Chandranana Bai, wife of the late Ullal Sanjiva Rao, residing in T.S.No. 823/1 of Ward No.IV of Mangalore Municipality.
Boloor. Mangalore.

Respectfully Showeth

1. That the petitioner has her residential house in T.S.No. 823/1 of No. IV Ward in Mangalore Municipality where she resides with her child and relations.

2. The house site was purchased by her husband early in 1925 and residential out-houses were constructed and were in the occupation of tenants. The main purpose why the site was purchased was because the residential house of the Memorialist and her husband was in a busy locality of Mangalore Town and the present site was selected as it was then a quiet and healthy locality.. Memorialist has since constructed a residential house on the site and has/ invested vast sums of money on the buildings and the compound.

3. Some years after the site was purchased and residential outhouses were put on the site by the husband of the memorialist, one Mrs. J.V.Saldhana appears to have taken on lease T.S.No. 829 in Ward No.V, which is just across the road and within 90 yards of the residence of the memorialist.

(contd.)

U. Chandranana Bai.
1-4-1941.

4. When Mrs. J.V.Saldhana contemplated starting a cashew-nut factory in T.S.No. 829 in or about 1930 and applied for a licence to the Mangalore Municipality, the Municipal Council would not grant a licence unless Mrs. J.V.Saldhana gave an undertaking that she would confine the factory to garbling and packing operations only and would not do any burning or roasting, much less use shells as fuel. The licence was granted only on those conditions, the idea of the Municipality being that in case roasting or burning operations were done, these would cause foul smoke which would be detrimental to the public health of the locality.

5. The factory constructed in T.S.No. 829 appears to have passed hands and the occupiers started since 1939 therein a cashew-nut factory where all processes of roasting frying and burning were being carried on with impunity fouling the atmosphere in the entire locality and petitioner was constrained to apply to the Mangalore Municipality by a petition dated 3-2-1940.

6. That the factory appears to have been condemned as an unsafe place by the Inspector of Factories, IV Circle, Coimbatore, by his F.66/40 dated 9-2-1940 and hence no licence for a factory was granted.

7. The said premises however appear to have since been taken on lease by Messrs. Aspinwall & Co. and they started a cashew-nut factory and began burning operations even without a licence and petitioner had again to move the Mangalore Municipal Authorities by a petition on 18-9-1940.

8. The Municipal Authorities thereupon by order Ref.C. No. 2968/H2/40 dated 19-9-1940 warned Messrs. Aspinwall & Co. against the use of cashew-nut shells as fuel, pending enquiry with regard to the other matters contained in memorialist's petition. The Municipal Council in its proceedings dated 7-10-1940 resolved that the nuisance caused by burning cashew-nut shells be immediately stopped.

U.C.B.

(contd.)

U. Chandranana Bai.
1-4-1941.

9. That the papers having been taken up to the Director of Town Planning, he by his proceedings D.T.P.No.3211/1940 dated 10-12-1940 after calling for report from the Commissioner of the Municipality and other concerned departments has ordered that the factory should be removed to an industrial area as soon as possible.

10. That since burning operations in which cashew-nut shell was being used were still continuing in the aforesaid premises, the Municipal Council by its Resolution No. 5 dated 5-2-1941 has ordered that all burning operations should be stopped forthwith.

11. Memorialist now learns that Messrs. Aspinwall & Co. have taken up the matter with the Government and memorialist therefore begs to approach the Government to place the full facts before them so that they may see that the memorialist has a just grievance and the stopping of burning operations in the premises is imperative in the interests of the public health of the locality.

12. Memorialist avers that cashew-nut shell is being used as fuel in the burning operations in the factory and the noxious smoke and dust of shells spreads over the whole area fouling the atmosphere and endangering the health of the residents in the neighbourhood. Memorialist's house is to the immediate east of the premises and the prevailing breeze, which on this coast is from the west, brings all the smoke and dust which easily settle down and get swept into memorialist's compound and residences.

13. Memorialist begs to submit that there is no gain-saying the fact that all burning operations in which cashew-nut shell is used as fuel is most obnoxious and besides dangerous to the health of the locality.

(contd.)

U. Chandranana Bai.
1-4-1941.

14. The contention that no roasting is being carried on in the premises but that only the process of heating and drying kernels is being done cannot bear scrutiny as the objection is to the dangerous smoke and dust emanating from the premises and the fuel that is used is ~~xxxxxx~~ cashew-nut shells. Local authorities who have inspected the locality as well as the opinion of the Health Department confirm the view that the process is dangerous to human life and health and property in the neighbourhood.

15. That the factory in question is within the prohibited limit of 200 yards of the residence of the memorialist and others living in her compound. In this connection attention may be drawn to G.O.No. 749 P.H. dated 24-2-1938, (Ed. & P.H.), which deals with the nuisance caused by cashew-nut factories and prohibits the location of them within 200 yards of dwelling houses.

16. That the recoomendation contained in Government Memorandum 8005-4-El-P.H. dated 12-6-1940 permitting the continuance of a factory in the premises does not in any way affect the statutory rights of the Municipality to take action under Section 249 of the District Municipalities Act. Besides it may be remembered that even the original licence given to Mrs. J.V.Saldhana for a factory in the premises was subject to the restrictions, viz, that the operations would be confined to garbling and packing only which require no burning process whatsoever. Besides the memorialist learns that the licence for a factory has not been renewed either by the Municipality or by the Industries Department. The claim that necessary precautions regarding the health of the workers in the factory and of the outside public have been taken cannot be accepted in view of the report of the Inspector of Factories F.66/40 dated 9-2-1940

(contd.) U. Chandranana Bai.
1-4-1941.

17. That the memorialist respectfully submits that in case the occupiers of T.S.No. 829 should be permitted to carry on burning operations, the position of the memorialist and the residents in the locality will be intolerable.

18. Prays therefore that the orders of the Municipal Council may be confirmed and the nuisance ordered to be abated.

Boloor,
Mangalore.
1st April 1941.

U. Chandranana Bai.

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18. Prays therefore that the orders of the Municip Council may be confirmed and the nuisance ordered to be abated.

Boloor.
Mangalore.
1st April 1941.

U. Chandranana Bai.

ASST SECRETARY TO GOVT. EDUCATIONAL AND PUBLIC HEALTH DEPT.
28 APR 1941

To

The Collector of South Kanara,

Mangalore.

Petition from the residents of Pentlandpetah, Mangalore Municipality, dated the 22nd April 1941.

Sir,

In connection with the location of the cashew nut factory on T.S.No. 829 of No. V Ward of Mangalore Municipality, now occupied by Messrs. Aspinwall & Co. and their appeal to Government against the decision of the Mangalore Municipal Council directing the removal of the factory therefrom to an industrial area, we beg to place the following facts for your kind consideration in coming to a decision regarding the continuance of any factory, particularly for cashew nut operations, in the said premises:-

1. At the outset it must be stated that we moved to the Pentlandpetah extension over two decades ago at very considerable inconvenience, there being no amenities here, such as bazaar, Post Office, dispensary or even a Police Outpost and our place of business or occupation being far away in the town. We have not only borne all these disadvantages but have invested large sums of money. The ground rent in this extension is the highest known, being in some places as much as Rs 200 per acre. This apart, the purchase price of the bare, barren land went up to Rs 500 per plot of 15 cents. The amount was paid not on account of its commercial or intrinsic value as would be the case in Bandar sites, but solely on account of collateral advantages. There was no danger of congestion as the lay-out by Government secured us against it and there was plenty of pure fresh air blowing from the sea side. Government themselves spent large sums of money on the roads and lanes, and we in effect paid for these these

these amenities including the pure fresh air, when we offered fanciful bids for the plots and further high rates of ground rents. The Pentlandpetah area had practically been completely developed by 1925, i.e, long before any factory came into existence in the said premises. The prevailing wind is from the west and this would blow the smoke and dust directly into Pentlandpetah from any factory situated on its west. The factory under reference is situated on the western margin of Pentlandpetah. A factory at the place in question would contaminate the very source of fresh air and would defeat the object of Government, while we would be deprived of what we had paid for. It need hardly be ~~xxxx~~ stressed that the health of the residents must be the dominant consideration, that we had settled down here long before the company came in and that individual interests must yield to social welfare.

2. The present extension having been considered a success, the Municipality has extended the area on the east. To this end the southern portion of the Urva Maidan, which was a military camping ground, has been laid out for house sites and will shortly be sold in auction by the Mangalore Municipality. Later on it will be necessary to carry on the extension on the west beyond the said factory. These facts are mentioned in order to shew the extent of interests involved and the damage that would result if the factory were to stand on the site in question.

3. The factory originally belonged to Mrs. J.V.Saldhan We learn that she was allowed to work it on the definite conditio that it would be used only for garbling and packing cashew nuts and that no roasting should be done, nor even shells used for purposes of fuel. The factory ceased working for some years, the premises have changed hands and in course of time the stipulation has been reduced to a dead letter, though there is far greater need now to enforce it and more. Roasting was done with impunity though for a short time and equally objectionable is the shelling and peeling of cashew nuts done by Messrs. Aspinwall & Co. as it leads to noxious smoke and dust.

~~dust~~ The above-mentioned

Further its situation is very close to the Municipal Girls' School and to the Urva Market which serves Pentlandpetah. The smoke and dust from the factory will damage the health of the school children and contaminate the food-stuffs exposed for sale at the market.

The above-mentioned restriction may well be appreciated as it is notorious that all processes connected with the cashew nut industry have been recognised as offensive and dangerous to the public health of the locality. Attention may be invited to the bylaws framed by the South Kanara District Board, dated 20-4-1937 and published as Supplement to the South Kanara Gazette, under which obtaining of licence even in rural areas is made obligatory for every process connected with cashew nut industry, such as even the packing of cashew nuts. Bylaw No. 4 reads as follows :-

" No place within the local fund area administered by the District Board of South Kanara shall be used for roasting or shelling or peeling or packing of cashew nuts without a licence issued for the same by the President of the said Board and except in accordance with the conditions specified in the licence. "

Mrs. Saldhana herself does not own the premises of the said factory. She took up the site on short term lease for about Rs 280 per year and erected the few sheds. After her own business, the Indian Food Products Co., failed and closed down she started renting the premises. And Messrs. Aspinwall & Co. has taken them up because they are cheaply available on a rent of about Rs 650 per year. Thus Messrs. Aspinwall & Co. have invested nothing and have not any permanent interest in the premises as we have ourselves in the locality.

4. Again the site of the factory lies within the Town Planning Scheme area. It lies in the midst of a residential and non-industrial part of the town. Being a residential area it should be preserved as such under Sections 89 & 90 of the Madras Public Health Act, excluding all industrial development therein. If any operations connected with cashew nut industry in particular, are allowed thereon, the citizens will at once be leprived of sanitary house sites and subjected to the unhealthy nd dangerous nuisance of the noxious smoke and dust from the actory. Any concessions shown will permanently injure the nterests of the residents, for which there is no need considering onsidering

considering specially that there are not any substantial buildings in the premises of the said factory and the present flimsy structures have been condemned by the Inspector of Factories.

It is also vitally necessary that this portion of Ward No.V between the Sultan's Battery Road on the north, the Kudroli and Bokkapatna Roads on the west and the Matadhkhani Road on the east, should be carefully preserved for the inevitable extension of Pentlandpetah on the west, because there is no other way of relieving the growing congestion in the town.

5. It only remains for us to request that the condition of the reservation of the site for residential and non-industrial purpose may be strictly enforced, for in the event even of allowing the place to be used only for garbling and packing cashew nuts, it would not only introduce a factory in a residential and non-industrial area, but we fear that history will repeat itself and roasting [illegible] or shelling and peeling introduced in course of time giving rise to noxious smoke and dust and causing endless hardship and correspondence. There would be none to watch the observance of any conditions, which it would be therefore impossible in practice to enforce, especially where an influential company is concerned.

We request in conclusion that for the reasons stated above the Collector may be pleased to uphold the resolution of the Mangalore Municipal Council that the said factory should be shifted to an industrial area and in the meantime the burning operations in the factory should be stopped. We pray that no licence should be granted for whatsoever purpose to this factory. It is a standing menace to the public health of the whole locality. It should be shifted to industrial area as soon as possible. And we pray that we should be saved from this anxiety and worry, as all operations of cashew nut industry particularly in a residential and non-industrial area are dangerous to human life or health or property.

We beg to remain,

Sir,

Your most obedient servants,

Pentlandpetah,
Mangalore.
Dated the 22nd April 1941.

1. K Ramachandra Rao, M.B.B.C.M.
Civil Surgeon Retired.

(signatures contd. on next page)

1. M Narasinga Rao M.L.
Dist & Sessions Judge (Rtd).
2. [illegible]
(Retired Collector & Secretary to Govt.)
4. Kamala Ktha Bhatg
5. M Damodara
Retd. Chief of Oriental Bank
6. [illegible] B.A., Banker.
7. M. P. Kini, B.A. B.L.,
Vakil, Mangalore.
8. Kasturi Sarvothama Pai.
9. [illegible] Merchant Mangalore
10. M. Ananta Shenai, B.A., L.T.
Teacher, mangalore
11. Raghavendra Kamalai
merchant mangalore
12. [illegible]
[illegible] (Retd)
13. [illegible] L. [illegible]
[illegible] Comm Mangalore
14. U. P. Kamath
15. Dr Damodara Kini M.A.L.T.
Retired municipal Commissioner Calicut
16. B. G. Patkar
Retd Sub Judge
17. G. S. Bhatji
18. Balarama Rawal
B.A. L.L.B
Retired Govt Pleader
19. B. Srinivasachar
Demonstrator, Govt. College, Mangalore
20. B. Krishna Rao
21. Gopi Damodar Nayak
Merchant,
Mangalore
22. Nagar Ramanath Shenai
Landholder
Mangalore
23. W. Fernandes
24. K. Vasudeva Kamat
Merchant Pentland [illegible]
25. N. [illegible]
Landland
26. [illegible] D'Souza.
27. J. Gonsalves B.A. L.T.
28. [illegible]
29. [illegible] Cloth merchant
Mangalore.
30. [illegible]
Trader, [illegible]
31. [illegible]
32. [illegible] Coffee Planter
33. V. Sakkarama Adyanthaya
34. N. Skanda Hegde.
35. K. Pundalika Sunsama
36. U. P. Kamath
General Merchant
37. [illegible]
Retd Head Master
38. S - Annappa Pai
Merchant
39. K. Raghunatha Pai,
40. [illegible]
41. [illegible]
42. A. Bhaskara Kchan
43. [illegible]

H. N. Nayak
L.T.M.S.L.T.

M. Srinivas Nayak
Merchant. Mangalore

46. [illegible]

47. Hon Secretary Hostel — Pentland Hotel
[illegible]
President.

48. T. Venkataramana Shetty

49. B. Subbaya

50. [illegible]

51. T. Venkat Rao
Medical Practitioner

52. [illegible]
(Proprietor, Sovereign Tile works).

53. [illegible]
Registered ayurvedic
Practitioner.

54. [illegible]

55. [illegible]
Medical Officer.
[illegible]

56. K. C. Kamath, Teacher
St. Aloysius College, Mangalore

57. [illegible]

58. [illegible]

5. 59. John Prasquith

60. [illegible]

61. [illegible]

62. [illegible]

63. [illegible]

64. Ullal Deva Rau.
merchant. Mangalore

65. P. Umanath Rao, Merchant.
Mangalore.

66. B. Narayana Rao

67. G. Ramakrishna Nayak

68. [illegible]

69. N. Laxminarayana Prabhu
merchant pentlandpet

70. B. Narasu'a Baliga
Canara Banking corporation Ltd
Mangalore.

71. B. Raghavendra Baliga
Kanara High School

72. [illegible]

73. B. S. Pinto.

74. K. Rama Bai Karant
75. (wife of K. A. Karant B.A; LLB, M.L.A)

75. B. Doomappa

76. B. Venkatraya. Kamath.

77. Mr. Venkata Babbu
Law Lord

78 [illegible]
Retired Tahsildar

Copy submitted to the Secretary
To Government, Education &
Public Health Department,
Fort St. George, Madras.

Copy to the Commissioner,
Mangalore Municipality.

Ex PH

101/94

Cmo 12970 From Mrs N. Chandrawana Bai Mangalore 9.1-4-41
13483 Coll - S Kamara No 2298 9 3-4-41

Noms 9635- 3 H.P 9 8/4/41

License - Mangalore Dl of

Cashewnut factories - Objections

Referred to the Coll.

of S. Kanara for very early

remarks in Continuation of

p1 of Noms. No. 9635 -1 H P. H 9 18-3-41

p6 of Cmd No. 9635 - 2 H P H 9 24-3-41

7/4

6
4/4

5/4/41.

To the Coll. of S Kanara

with ref to the above

ps 5-9 of Cmd

7/4

C4: 1996: 40:

Re-submitted through the Vice-Chairman in charge, Municipal Council, Mangalore, and the Collector of South Kanara, Mangalore.

SOUTH KANARA
COLLECTOR'S OFFICE.
2-APR 1941
No.

The Factory at Urva situated in T.S.Nos. 829 of 5th Ward was formerly occupied by the Indian Food Products Mangalore and this was permitted to be continued outside industrial area as per Government Memorandum No.8005-4-E-1 P.H., dated 12th June 1940 (enclosed) on ~~the~~ conditions that might be imposed by the Municipal Council. It is now in the hands of Messrs Aspin Wall & Co., Ltd.,

On 16th September 1940, Messrs Aspinwall & Co. Ltd., Mangalore, intimated to the Municipal Health Officer that they have started work in the above Cashew Factory and requisitioned for necessary scavenging service. It was then that the question of obtaining a license arose. In the meanwhile, there was also a petition from the residents of Urva dated the 14th September 1940, and also from Mrs. Ullal Chandranana Bai, dated the 18th September 1940 protesting against the burning operations carried on in the Factory. This petition as well as the question whether a license is necessary came before the Council which in its resolution No.44, dated the 7th October 1940 (Copy enclosed) resolved that the Municipal Health Officer should take immediate steps to stop the nuisance complained of. Rao Saheb K. R. Tombat, Executive Engineer (on leave) in the meanwhile submitted a petition for and on behalf of Mrs. Chandrana Bai to the Director

of Town Planning. The Director of Town Planning in his endorsement D. T. P. 2989/40, dated the 9th November 1940 called for my remarks therein. A copy of letter dated the 23rd October 1940 of Rao Saheb Tombat to the Director of Town Planning with the remarks of the Health Officer and myself is enclosed.

The Municipal Health Officer was of opinion that it would be highly objectionable to permit roasting to be done in the place as it would effect the Health of the people in the locality. He was of opinion that even for peeling a certain amount of heating of nuts is necessary and if for generating that heat cashew shells are used then that would prejudicially affect the health of the people of the locality.

The fact that Government had issued orders in Memorandum No.8005-4-E-1, P.H., dated the 12th June 1940 was brought to the notice of the Director of Town-Planning in Health Officer's remarks and the statement of Messrs Aspinwall & Co. in para 7 of their appeal to the contrary, is incorrect. In his Memo D. T. P. No. 3211/40, dated the 10th December 1940 (copy enclosed) the Director of Town Planning observed that it was detrimental to the health and amenity to permit the working of the factory in the place and since the site falls within the Kodialbail West Ward Town Planning Scheme area the retention of the factory in the place would be prejudicial to proper development of the area and contrary to the interests of the scheme and that in as much as the Municipal Council had already notified industrial area steps should be taken by the Council to see that this factory was removed to an industrial area as soon as possible in accordance with the

Pw 6 p 3 (E)

instructions contained in paragraph 2 of G.O. No.4054 P.H., dated the 3rd September 1940. The Council considered the matter carefully and in its resolution No.5, dated the 5th February 1941 - copy enclosed - resolved that immediate steps be taken to remove the factory from the present locality to an industrial area as suggested by the ex-Officio Director of Town Planning. It also resolved that the Executive should take urgent steps to stop forthwith all burning operations at the factory. In accordance with this, the Company had been asked to stop all burning operations forthwith. I may point out in this connexion that no notice has yet been issued to the Company to shift it to an industrial area but the copy of the resolution was communicated so that the Company may be prepared to shift the factory in proper time when notices in accordance with G.O.No. 4054 P.H., dated the 3rd September 1940 are issued. It is open to the Council and/or the Executive under Section 249 in granting license that all burning operations in a factory premises should stop on account of the harmful smoke and dust they give rise to. The statement of the Company that the resolution of this Municipal Council and the order of the Executive Authority are ultra vires as being not in accordance with the provisions of the Madras District Municipalities Act or any by-laws framed is not correct in as much as it is open to the Council under Schedule V of the Act to insist upon obtaining a license under Section 249 of the Act and the notifications issued thereunder irrespective of the fact whetner it is a factory or not. I may however be permitted to observe that this factory lies immediately to west of Pentlandpettah, a highly developed residential

p 354

pp 196-197 BKm. 17
p 197 (s) & (t)

pp 108-109 Am no 17

A

extension where land owners are paying heavy assessment to Government and where great capital has been sunk to provide peaceful residences away from the stench and smoke of a conjested area. I may also submit that the area where this factory is situate was proposed once to be included in the industrial area, because of the existence of this and another factory, but at the instance of the Director of Town Planning it was not included. It is now proposed to be included as a residential area under the Public Health Act. It may no doubt be true that roasting is not done now, but shelling is going on and the shells could be used as fuel in heating operations. In fact where there are cashew shells it is in the interests of commercial economy to use the same.

Municipal Office,)
Mangalore, 29.3.41.)

Commissioner, M.M.

F o r w a r d e d:

Vice-Chairman, M.C. in charge.

HDU:31-3-41.

Enclosures:-

DESPATCHED
1 APR. 1941

Compd:- 31.3.41.

Government of Madras

Education and Public Health Dept.,

Memorandum No.8005-4-E1-P.H., dated the 12th June 1940.

Factories - Mangalore Municipality - Factories outside industrial area.

From the Commonwealth Trust Limited, Calicut, Malabar A/1549, dated the 27th February 1940.

From the Commissioner, Mangalore Municipality C-2777/H2/40, dated the 9th May 1940.

The Government have no objection to the continuance in their present sites of the work places (twenty in number) specified in the list received with the letter of the Commissione Mangalore Municipality No.C. 2777/H2-40 dated 9th May 1940. It is open to the municipal council to impose any conditions the council thinks necessary under section 251 of the Madras District Municipalities Act, 1920.

R.V. Krishna Ayyar,
Secretary to Government.

To

The Commissioner, Mangalore Municipality through the Chairman.

/True Copy/

Municipal Office, Mangalore,)
Dated the 29th March 1 9 4 1.)

Commissioner, M.M.

HDU:31/3-41

31.3.41

No. .....

Extract from the Proceedings of the Mangalore Municipal Council at its meeting held on 7th October *19* 40.

Resolution No. 44

Read: Petition dated the 18th September 1940 from Mrs.Ullal Chandranana Bai, residing opposite Urva Market,Boloor,complaining the nuisance caused by roasting of cashewnuts in the Factory leased out to Messrs Aspinwall & Co. for the purpose of cashewnut Industry by Messrs Saldanha & Sons and the notices issued by the Municipal Health Officer to the Manager, Messrs Aspinwal & Co.

The Municipal Health Officer should take immediate steps to stop the nuisance complained of.

x x x

Sd/B.Venkatarao Baliga,
Chairman, M.C.
/True Extract/

Municipal Office, Mangalore,)
Dated the 29th March 1941.)

Commissioner, M.M.

HDU:31/3/41
compd:

From

Sri Rao Sahib K.R.Tombat,
" Devadutt", Sir Habibullah Road,
Tyagarayanagar, Madras.

To

The Inspector of Local Bodies &
Municipal councils &
The Director of Town Planning, Madras,

Through

The Commissioner,
Mangalore Municipality,
Mangalore.

Sir,

Subject:- Mangalore Municipality - No.4 ward - prayer not to grant license to cashew nut factory in the residential area, nor to grant any exemption.

=======

I beg to submit this humble petition on behalf of my niece, Mrs. Ullal Chandranana Bai, who is living in her residence at Boloor, Mangalore. She being recently widowed, I am her guardian and also her agent.

2. I beg to submit herewith for favour of your kind perusal copies of my niece's petitions dated the 30th December 1939 and 3rd February 1940 addressed to the Commissioner and the Health Officer of the Mangalore Municipality, along with a copy of the enclosure to the latter, Viz, blue print site plan of her residence (T.S. No.823/1) in No.4 Ward of Mangalore Municipality, showing the objectionable cashew nut factory immediately close on the west of the residence. In these petitions, my niece giving very substantial reasons, pleaded that no license should be granted to the cashew nut factory and if one has been granted it should be cancelled. She also prayed that this menace to public health be removed once and for all and orders issued accordingly in the matter finally setting at rest the perturbed minds of all the ~~all the~~ inhabitants of the neighbourhood.

3. I beg to bring to your kind notice that the above

cashew nut factory is inside the residential area whereto people have come and settled down at very considerable expense and inconvenience far away from the town in order to avoid its congestion and insanitary conditions. This area in particular in which the factory is situated, between the Matadakani road and Kudroli road down to Ramappa's tile factory on the south, has specifically been directed by you as Director of Town Planning, to be excluded from Industrial area and that being residential area, it should be preserved as such under sections, 89 and 90 of the Public Health Act. This was in about September 1939.

I understand that the Inspector of Factories, Coimbatore, has also objected to the factory on the ground that it is not in safe condition, the ventilation is inadequate and the roasting in the manner done was injurious to health.

4. At the time of the petitions the factory was not working. It did not resume working. The then lessees the Indian Produce Exporters Cashew Factory, later terminated their lease and left the premises.

It appears that recently Messrs Aspinwall and Co. took the premises on lease and apparently without obtaining any license commenced working the factory from about the middle of August 1940 on peeling garbling and packing cashew nuts and the sooty smoke arising from the burning for peeling operations was being blown into my niece's compound. My niece thereupon petitioned once again to the Commissioner, the Health Officer and the Chairman.

5. I understand that the Municipal council considered the above petition at their meeting on the 7th instant and after full discussion have unanimously

decided not to grant license to the factory as it is in a residential area and that immediate notice be issued to the factory asking them to stop work. The Commissioner seems to have brought to the notice of the council that certain otner factories which are in residential areas have been givenspecial exemption by Government and in the event of his refusing license, they may appeal to Government and try to get special exemption.

We fear that Messrs Aspinwalls may move Government in the matter and obtain exemption.

6. I beg to respectfully submit that there is no case whatever for any exemption and earnestly plead that the council's decision not to grant any license and to get the factory to stop work at once, be upheld and enforced.

(i) This is a residential area. It is vitally necessary that it should be preserved as such in the interests of people who have come and settled down here at considerable expense to avoid ill health and congestion in the town.

(ii) The factory is far too close on the west of my niece's residence and this is the direction of the prevailing breeze. It ruins the health and value of my niece's property where she has recently invested over Rs.6,000 on additional buildings.

(iii) The whole factory compound is within the prohibited distance of 200 yards from my niece's residence. In fact the distance between the two compounds is just the road width of 60' to 92'. In accordance with G.O. No.749 P.H., dated the 24th February 1938 which applies with all the greater force to the location of factories in municipalities, no cashw nut factory can be

allowed here.

(iv) The present workers of the factory, Messrs Aspinwalls are only lessees and not owners of the premises. They have no vested or important interests whatever in the premises. The concern of Mrs.Saldanha which first obtained license over ten years ago and that too on street condition that it would confine the operations to garbling and packing only, was liquidated and closed. Subsequently the premises were taken on lease and the factory worked for a time by the Indian Produce Exporters Cashew Factory and these people went beyond the original conditions and did roasting and peeling of cashew nuts. This concern however ceased working and cleared out after terminating their lease. Now Aspinwalls are on the scene.

7. I therefore earnestly pray that you will be pleased to order that no license should be granted for whatever purpose and to direct that the working of the factory be effectively closed forthwith.

A copy is being sent direct.

I beg to remain,
Sir,
Your most obedient servant,

Sd/K.R.Tombat
23.10.40

En:Copies of petitions
dated 30.12.40 & 3-2-1940
Blue print site plan.

/True Copy/

Municipal Office, Mangalore,
Dated the 29th March 1941.

Commissioner, M.M.

HDU:31/3/41.

compd: 31.3.41

Remarks on the petition of Rao Saheb K.R.Tombat.

=====

Messrs Aspinwall & Co. have taken on rent the factory in T.S.No. 829 of Bolur ward formerly run by the Indian Food Products Co. outside the Industrial area, but this has been permitted by the Government in their Memo. No.8005-4-E1 P.H., dated the 12th June 1940. The Company has stated and this is correct that it does not roast cashew nuts but that only shelling peeling and packing are done in the place and that no machinery is used for the purpose. The roasting is done elsewhere.

It will be highly objectionable to permit roasting to be done in this place as that will affect the health of the people in the locality. Even for peeling a certain amount of heating of nuts is necessary and if for generating that heat cashew shells are used then that would prejudicially affect the health of the people of the locality.

The matter came before the council on a representation from Mrs. Chandranana Bai and the council in its resolution No.44 dated the 7th October 1940 (copy enclosed) authorised the Municipal Health Officer to stop the nuisance.

A notice has accordingly been issued to the Manager of the company (copy enclosed)

The Director of Public Health, Madras, visited the locality when he came here last month.

The Company has stopped work now.

Sd/ B. Subraya Baliga,
2/11
Municipal Health Officer.

/True Copy/

Municipal Office, Mangalore, |
Dated the 29th March 1941. | Commissioner, M. M.

HDU:31/3/41. 31.3.41.

Resubmitted to the Inspector of Municipal Councils with reference to his endorsement D.T.P. 2989/40, dated the 9th November 1940.

2. A copy of the remarks of the Municipal Health Officer with copies of enclosures is enclosed. In my view it will be a nuisance to have any sort of factory generating smoke near one's residence. I was a victim myself in another station. Imposing of conditions may mitigate nuisance, but cannot stop it. The Factory has been recently visited by the Director of Public Health. I understand it is not working now for want of nuts.

(sd) M.Narayana Shenoy,
23.11.40
Commissioner, M.M.

/True Copy/

Municipal Office,)
Mangalore,29.3.41)

Commissioner, M.M.

Compd:- 31.3.41

HDU: 31-3-41.

Memorandum of the Ex-Officio Director of Town Planning, Madras

S.Ranganathan Esq., B.E., I. C. S.,

========

D.T.P.No. 3211/40, dated the 10th December 1940

Subject:- License - Mangalore Municipality - Cashew Nut Factory in the midst of residential area - Kodialbail West Ward Town Planning Scheme - Compling nuisance - prohibition.

Petition from Rao Saheb K.R. Tombat on behalf of Mrs. Lal Chandranana Bai residing at Bolur, Mangalore to the Ex-Officio Director of Town Planning and Inspector of Municip Councils and Local Boards, Madras.

From the Commissioner, Mangalore Municipality to the Director of Town Planning and Inspector of Municipal Councils and Local Boards, Endt. No.H2-2923/40, dated the 23rd Novr.40

==========

The Cashew nut Factory in T.S.No.829 at Bolur, Mangalore lies in the midst of a residential area and, from the reports of the Municipal Commissioner and Health Officer, it is obser that it is detrimental to the health and amenity to permit th working of the factory in the place. Further, the site of the factory falls within the Kodialbail West Ward Town Planning scheme area and the retention of the factory in the place woul be prejudicial to proper development of the area and contrary to the interests of the scheme.

In as much as the municipality has already notified the areas for industrial purposes, steps should be taken by the municipal council to see that this factory is removed to an industrial area as soon as possible, in accordance with the instructions laid down in paragrapns 2 and 5 of G.O.No. 4054 P.H., dated the 3rd September 1940.

Sd/
for Ex-Officio Director of
Town Planning, Madras.

To the Commissioner, Mangalore Municipality.
Copy to the Director of Public Health, Madras.

/True Copy/

Municipal Office, Mangalore, I
Dated the 29th March 1 9 4 1. I

COMMISSIONER, M.M.

HDU: 31-3-41.

Compd: 31.3.41

No. .....

Extract from the Proceedings of the Mangalore Municipal Council at its meeting held on 5th February *19* 41.

Resolution No. 5

Read: Memorandum dated the 10th December 1940 No.D.T.P. 3211/40 from the Director of Town Planning, Madras, directing that steps be taken for the removal to an industrial area of the Cashewnut factory at Urva, of Messrs Aspinwall & Co. Government Memorandum 8005/4-E-1 P.H., dated 12th June 1940 stating that Government have no objection to the continuation of the above and such 19 other factories which are outside Industrial area and the connected file of papers.

Immediate steps to be taken to remove the factory from the present locality to an Industrial area as directed by the Ex-Officio

Director of Town Planning. The executive also to take urgent steps to stop forthwith all burning operations at the factory

Sd/ L.C. Pais,

Vice-Chairman,M.C. in charge.

/ True Extract /

Municipal Office, Mangalore,
Dated the 29th March 1941.

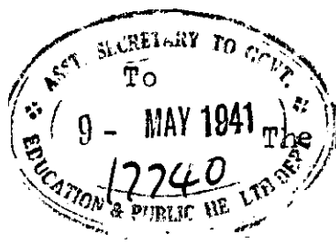
Commissioner, M.M.

-HDU:21/3 31.3.41.

D.Dis. 2298-41. South Kanara Collector's Camp: Karkal, dated 6

From

M. V. Subrahmanyan, Esq., I.C.S.,
Collector of South Kanara.



To

The Secretary to Government,
Education and Public Health Departme
M a d r a s.

Sir,

Licence - Mangalore Municipal Council - Cashew-nut factory at Urva - Removal of - appeal - Remarks offered.

****

Ref:- (1) Government memo No.9635-1-E1 P.H. dated 18-3-41.

(2) Government Memo No.9635-2-E1 P.H. dated 24-3-41.

(3) This office Ref. B4-2298-41 dated 3-4-41.

(4) Government memo 9635-3 H.PH dated 8-4-41.

(5) From the Vice-Chairman in charge, Mangalore Municipal Council, Ref.C.No.1996/41 dated 18-4-41.

I resubmit herewith in original the enclosures referred to in the Government Memo first quoted above and received by me from the Commissioner, Mangalore Municipality with his remarks Ref.C.No. 1996-40 dated 29-3-41.

2. I inspected the locality on 28-4-1941. Sri Rao Saheb K.R.Tombat on behalf of his niece, Mrs. U. Chandranana Bai referred to in the Government memo No.9635-3 H.PH dated 8-4-41 a representative of Messrs. Aspinwall and Co., Ltd., Mangalore (the appellants in the case), the Municipal Commissioner, and Dr. Rama Baliga and others on behalf of the residents of Pentlandpetah were present.

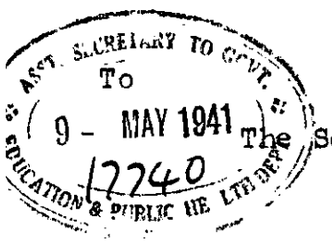
3. The locality is a well-laid-out and quiet residential area. The factory has plenty of elbow-room within its compound and the locality is not dense or crowded, but that is all

D.Dis. 2298-41.

South Kanara Collector's Office,
Camp: Karkal, dated 6th May, 1941.

From

M. V. Subrahmanyan, Esq., I.C.S.,
Collector of South Kanara.



To

The Secretary to Government,
Education and Public Health Department,
M a d r a s.

Sir,

Licence - Mangalore Municipal Council - Cashew-nut factory at Urva - Removal of - appeal - Remarks offered.

****

p9 cut Ref:- (1) Government memo No.9635-1-E1 P.H. dated 18-3-41.

p12 cut (2) Government Memo No.9635-2-E1 P.H. dated 24-3-41.

p13 cut (3) This office Ref. B4-2298-41 dated 3-4-41.

p25 cut (4) Government memo 9635-3 H.PH dated 8-4-41.

p21-25 cut (5) From the Vice-Chairman in charge, Mangalore Municipal Council, Ref.C.No.1996/41 dated 18-4-41.

(2)

I resubmit herewith in original the enclosures referred to in the Government Memo first quoted above and received by me from the Commissioner, Mangalore Municipality with his remarks Ref.C.No. 1996-40 dated 29-3-41.

2. I inspected the locality on 28-4-1941. Sri Rao Saheb K.R.Tombat on behalf of his niece, Mrs. U. Chandranana Bai referred to in the Government memo No.9635-3 H.PH dated 8-4-41 a representative of Messrs. Aspinwall and Co., Ltd., Mangalore (the appellants in the case), the Municipal Commissioner, and Dr. Rama Baliga and others on behalf of the residents of Pentlandpetah were present.

3. The locality is a well-laid-out and quiet residential area. The factory has plenty of elbow-room within its compound and the locality is not dense or crowded, but that is all

the more reason, naturally, why the residents of the locality value amenities more highly.

4. The factory buildings are in a dilapidated condition. Sri Rao Saheb K.R.Tombat gave me a copy of a letter F.66/40, dated 9-2-40 sent by the Inspector of Factories, Coimbatore to the Commissioner of the Mangalore Municipality (enclosed) which appears to refer to this factory and in which it is mentioned that the building was not in a safe condition for use and the Commissioner, Mangalore Municipality was requested to serve on the occupiers notice to submit plans and obtain a certificate of suitability as per Rule 101 of the Madras Factories Rules, and it was also suggested to the Commissioner that licence to work need not be renewed without consulting his office. This would be a matter for the Commissioner of the Municipality to consider in connection with the question of licensing.

5. The representative of Messrs. Aspinwall & Co., Ltd., contended, however, that this is not a factory under the Factories Act and he has sent me copies of the correspondence between him and the Inspector of Factories, Coimbatore, which seems to show that this is not a factory under the Factories Act. These copies are enclosed.

6. The question now has to be considered not as one would view a fresh application (in that case there would be no problem at all for this is a non-industrial area) but taking, as the starting point, the fact that the Government in their order No.8005-4-E1-PH dated 12-6-40, allowed this factory to remain in the existing place. From that it will follow that it would not be fair to compel it to shift altogether, but that it would be legitimate to impose such conditions as are necessary to abate the nuisance complained of.

7. It is clear that roasting of cashew-nuts, which is the most objectionable process, is not carried on here; it is done in other premises, which are about three quarters of a mile away. It may, however, be put down as a definite condition of the licence that roasting of cashew-nut should not be done. It is admitted by the Firm that for the heating which is done for the process of peeling, cashew-shell is also used as a fuel along with other fuel. The smoke and fumes and smell emanating from cashew fuel are certainly offensive and deleterious and a condition may legitimately be imposed that cashew-shell fuel should not be used at all.

8. The point was also raised that the existing chimneys are not adequate for the purpose. To my layman's view that did appear to be so also. It would be legitimate for the Municipality to impose suitable conditions regarding the size and type of the Chimneys.

9. One important point raised was (this was mentioned in the petition sent by Mrs. Chandranana Bai) that the original licence was issued stipulating, specifically, that only the processes of packing and garbling cashew nuts would be allowed. If this were correct, and if the later licences, and particularly the licence last in force before the Government passed their orders in Memo No.8005-4-E1-PH, dated, 12-6-1940, contain the same stipulation, it would certainly be justifiable now to hold that the factory, the continuance of which was permitted by the Government in their said order, was a factory which would be allowed to do only packing and garbling, and the Municipality would be justified in refusing a licence for the factory as it now works, including other processes also. But Sri Rao Saheb K.R.Tombat stated that he had no copy with him of the licence which he refers to, and that the statement was made in the petition only on the strength of certain averments which had been made by a relative of his who had previously been on the Municipal Council.

From my enquiries, it does not appear that the ovens were installed and the heating processes introduced only by Messrs. Aspinwall & Co., Ltd., after they came in. The process seems to have been going on even before that. I understand at the time of the inspection that a licence was last issued in 1938-39 to the previous owners. I asked the representative of Messrs. Aspinwall and Co.Ltd., to produce that before me. They have, however, replied later to the effect that no licence was taken out by the previous owners, nor were they under an obligation to take out any. It may be added here that in the list of factories with reference to which the Government passed the orders permitting them to continue, it has been noted against this factory that it was not working; and the Commissioner informed me also that in the covering letter the only thing mentioned was that the list was being sent and that there was nothing, therefore, in the connected correspondence which would show what the exact processes were which had been permitted to be carried on by this factory when it had last been working. In the absence of any material to the contrary, however, it may be taken, as indicated by me above, that the process of heating which is now going on was going on even previously also. Messrs. Aspinwall have also forwarded a letter from the India Food Products Co. (one of the previous owners) in which it is stated that when they were working the factory between 1929 and 1934 all the process involved were carried on viz. Shelling, drying, peeling, grading and packing.

10. It is necessary, however, that it should be made clear to Messrs. Aspinwall that the exemption given by the Government order in their memo No.8005-4E-1.PH. dated 12-6-40, applied only to the factory as it then stood and that if, beyond any repairs necessary to the existing buildings there should be any extension of buildings or of the size and scale of operations, the exemption would

not avail. This is necessary to ensure that the quantum of nuisance to the locality is not aggravated by any such operations.

11. This warning, and a direction to the Municipality to issue a licence with conditions as indicated above, would, I think, properly meet the case. With cashew-shell fuel eliminated, and a proper type of chimney for ordinary smoke prescribed, the nuisance to the locality, generally, and to Mrs. Chandranana Bai, who owns the building nearby, in particular, would be reduced to the lowest minimum compatible with the existence of the order of exemption given by the Government in their Memo of June 1940. The orders passed by the Inspector of Municipal Councils and Local Boards, Madras and the Director of Town Planning, Madras in his D.T.P.No.3211/40, dated, 10-12-40 and the resolution No.5 dated 5-2-41 passed by the Municipal Council, Mangalore, in pursuance of those orders will have to be cancelled.

12. I do not think that the position taken up by Messrs. Aspinwall & Co., Ltd., that no licence is necessary at all, is tenable. Items (r), (s) and (t) in Schedule V of the Madras District Municipalities Act would cover the case and the Municipality has issued the necessary Notifications under Section 249 on 20-3-1932 (copy enclosed). Licences seem to have been taken out in previous years too. Section 251 of the said Act would also be applicable if the premises are a factory within the meaning of that Section. No 'power' processes are used, and so this will be a factory for the purposes of that Section only if this is a factory under the Factories Act. Otherwise, action would be only under Section 249 of the Madras District Municipalities Act.

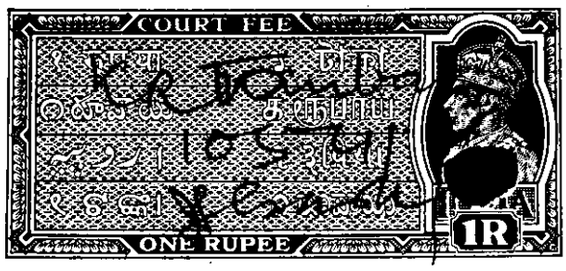
13. The papers in this office relating to the enquiry, including the several petitions received by me in the matter, the Municipal Commissioner's Ref.C.No.1996-41 dated 18-4-41,

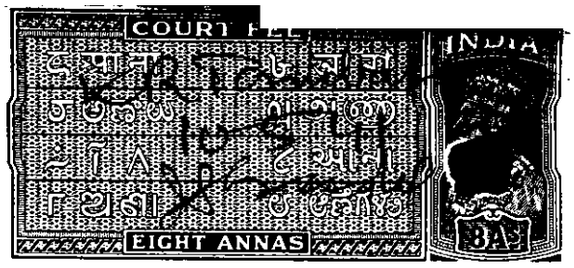
which is a reply to the Government Memo No.9132-1-E1-PH dated 18-3-41, and, the petition of Mrs. U.Chandranana Bai, dated 1-4-41 referred to me in Government Memo PH dated 8-4-1941 are also enclosed.

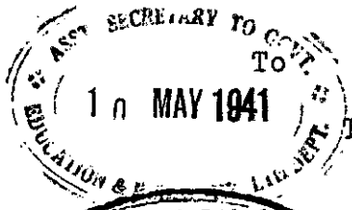
For Collector.

7.5.41

7.5.41







To

The Secretary to Government,

Education & Public Health Department,

Fort St. George. Madras.

Humble petition of Rao Sahib K.R.Tombat on behalf of his niece, Mrs. U.Chandranana Bai, Boloor, Mangalore, in continuation of her memorial to Government, dated the 1st April 1941, regarding the objectionable cashew-nut factory of Messrs. Aspinwall & Co. Ltd. in T.S.No. 829 of Ward No.V of Mangalore Municipality.

Sir,

I beg to submit herewith for favour of information and consideration of Government, a copy of my petition dated the 29th April 1941 to the Collector of South Kanara on behalf of my niece, Mrs. U.Chandranana Bai, in the above-said matter. The Collector had given me notice of his inspection of the locality on 28-4-1941 and allowed me to represent on my niece's behalf. I also submit copies of Resolutions No. 5 dated 5-2-1941 and No. 29 dated 16-4-1941 of the Mangalore Municipal Council.

2. The above-mentioned latter Resolution of the Council, No. 29 of 16-4-1941, categorically states that the shelling and peeling operations of cashew nut, as carried on by Messrs. Aspinwall & Co. at the above-mentioned factory, constitute dangerous and offensive trade requiring licence under Section 249 of the Madras District Municipalities Act, and that as the area wherein the factory is situated is pre-eminently a residential area, no licence can be granted for any operation connected with cashew nut industry in that area.

3. Even in rural areas, all processes of cashew nut industry are held to be dangerous and offensive trade and the obtaining of licence is obligatory for every process connected with

(contd.)

K.R. Tombat

with cashew nut industry, such as even the packing of cashew nuts, vide the enclosed extract of the notification dated 29-10-1937 published in the Supplement to the South Kanara Gazette and Bylaw No. 4 thereunder. This is under Section and Schedule of the Madras Local Boards Act, corresponding to Section 249 of the Madras District Municipalities Act and Schedule V thereof.

4. The G.O.No.8005-4-E-1-P.H. dated 12-6-1940 only applies to the Indian Food Products Co. that previously existed in the said premises, T.S.No. 829, and ceased working long ago. The G.O. does not apply to the factory now worked by Messrs. Aspinwall & Co. for shelling and peeling operations of cashew nut.

5. The above-said factory worked by Messrs. Aspinwall & Co. has no machinery and therefore is not a factory within the provisions of Section 251 and hence the G.O. No. 8005-4-E-1- P.H. dated 12-6-1940 with the recommendation in its second sentence does not apply to the same.

6. In any case, whether it is a factory or not, no operation should have been commenced in the premises without first obtaining a licence from the Mangalore Municipality under Section 249 of the Madras Dt. Municipalities Act.

7. Messrs. Aspinwall & Co. have been working the factory since September 1940 without any licence and this has been an offence under the Madras Dt. Municipalities Act. Even the resumption of work under the cover of the stay order of Government in their Memo. No. 9635/2-E1-P.H. dated 24-3-1941 would still be an offence.

8. I therefore pray that the above-mentioned stay order of Government in their Memo. No.9635/2-E1-P.H. dated 24-3-1941 be vacated and that the Resolutions of the Mangalore Municipal Council, No. 5 dated 5-2-1941 and 29 dated 16-4-1941 be upheld and enforced.

"Devadutt",
Sir Habibullah Road,
Tyagarayanagar, Madras.
Dated the 10th May 1941.
En- Four unattached pages 3 to 5.

I beg to remain,
Sir,
Your most obedient servant,
K. P. Tombat
10.5.41

Extract from the Proceedings of the Mangalore Municipal Council Meeting held on 5-2-1941.

Read:- Memo.dated 10-12-1940, No. D.T.P. 3211/1940 from the Director of Town Planning, Madras, directing steps to be taken for the removal to an industrial area of the cashew nut factory at Urva, of Messrs. Aspinwall & Co., Govt. Memo. No. 8005-4-E1-P.H., dated 12-6-1940 stating that the Government have no objection to the continuance of the above and such 19 other factories, which are outside industrial area, and the connected file of papers.

Resolution No. 5 dated 5-2-1941.

Immediate steps to be taken to remove the factory from the present locality to an industrial area as directed by the Ex-officio Director of Town Planning. The Executive also to take urgent steps to stop forthwith all burning operations at the factory.

II. Extracts from the Proceedings of the Mangalore Municipal Council Meeting held on 16-4-1941.

Read:- Government Memo. No.9635/2-E1-P.H., dated 24-3-1941 directing that the order of the Council insisting on the immediate closure of the cashew nut factory of Messrs. Aspinwall & Co. at Boloor be stayed pending orders of Government on the appeal preferred by the Co. and the connected file of papers.

Resolution No. 29 dated 16-4-1941.

The following resolution was moved by Dr. U.P.Mallya & seconded by Dr. N.Upendra Pai.

The Council reiterates its Resolution No.V dated 5-2-'41 and is of opinion that all operations connected with cashew nut industry come under dangerous and offensive trades and require a licence under Section 249 of the Madras District Municipalities Act. As the area wherein the burning operations are carried on by Messrs. Aspinwall & Co. is pre-eminently a residential area no licence can be granted for any operation connectd with cashew nut industry in that area.

Carried unanimously.

(True copies)

III. Copy of petition dated 29-4-1941 to the Collector of South Kanara, Mangalore, from Rao Sahib K.R.Tombat on behalf of his niece, Mrs. U.Chandranana Bai, Boloor, Mangalore, regarding the objectionable cashew nut factory in T.S.No.829 of No.V Ward of Mangalore Municipality.

Sir,

May I respectfully represent the following, which I am very sorry I could not do yesterday evening during your inspection of the locality as I could not then refer to the wording of Section 251 of the District Municipalities Act.

1. Messrs. Aspinwall & Co. have carried on the shelling and peeling operations without a licence. In their petition to Government dated 11-3-1941, they have pleaded that theirs is not a factory (under Section 251 of the Act), that no licence was necessary and none was therefore applied for. They chose not to apply for and take out a licence. Pleading on one side that it is not a factory, the Co. cannot fairly be entitled to the privileges of a factory under Section 251 of the Dt. Municipalities Act.

2. Section 251 of the Act deals with the kind of fuel only employed on generating the steam power, water power, or other mechanical or electrical power, and not with the fuel such as is used in the present case for heating kernels, etc. The latter falls under Section 249 of the Act only, vide also clause (s) under Schedule V.

3. Section 251 of the Act does not affect Section 249 of the Act in any manner. It would be seen from Resolution No. 29 dated 16-4-1941 of the Mangalore Municipal Council, that not-withstanding Section 251 of the Act, the Municipal Council could exercise powers under Section 249 of the Act.

4. As was submitted by my niece, Mrs. Chandranana Bai in paragraph 16 of her petition to Government, dated 1-4-1941, the G.O.No. 8005-4-E1-P.H., dated 12-6-1940 does not in any way affect the statutory powers of the Municipality to take action under Section 249 of the Act. May I venture to respectfully plead that the Government or the above G.O. cannot legally interfere with the action of the Municipality under the statutory powers conferred on the Municipality by the Act of the Legislature.

(Contd.)

As my mother and my wife have not been well, I am leaving for Bangalore this morning at 6-30 taking them with me. My address at Bangalore has been given above (8th Main Road, Malleswaram, Bangalore)

Mangalore.
Dated. 29-4-1941.

I beg to remain,
Sir,
Your most obedient servant,

Sd. K.R.Tombat.

(True copy)

K. R. Tombat,
10.5.41

SOUTH KANARA GAZETTE. SUPPLEMENT.

- LOCAL FUND SHEET-

NOTIFICATION

In exercise of the powers conferred by sub-section (8) of section 202 of the Madras Local Boards Act 1920, as amended by Act II of 1930 and subsequent Acts upto and including Act 2 of 1934 read with clauses (o), (p) and (q) of Schedule VII of the same Act, the South Kanara District Board has been pleased to make the following bylaws relating to the sanitary control and supervision of places used for carrying on of cashew nut industry in the South Kanara District.

These bylaws shall come into force three months after the date of the publication of this notification.

South Kanara District
District Board Office,
Mangalore, dated 29th October 1937.

Sd. A.C.Gonsalves.
For President,
District Board, South Kanara.

Bylaw No.4.

No place within the local fund area administered by the District Board of South Kanara shall be used for roasting or shelling or peeling or packing of cashew nuts without a licence issued for the same by the President of the said Board and except in accordance with the conditions specified in the licence.

Provided that no such licence shall be required where the roasting or shelling or peeling or packing is done for bonafide domestic consumption and not for trade.

(True copy)

From Messrs. Aspinwal & Co Mangalore, Telgm dt 22-3-41

- License. Mangalore Mk - el.

Removal of cashewnut factory - appeal of Messrs. Aspinwal & Co.

The petition received from Messrs. Aspinwal & Co. has been referred to the Commr. of the Mangalore Dly for early remarks. Vide Memo. No. 9635 - LE. Pt dt 18-3-41. The Company requests that the order of the Mk. Council to close their factory may be stayed pending the final orders of the Govt. on their petition. The license granted by the Council will ordinarily expire on 31-3-41. There seems however no objection to inform the Commr. that the factory may be allowed to work at its present site till final orders are passed in the matter. If approved, the draft below may be approved.

Ws
24/3.

G
24/3
Ws
22-3-41

[Memo. 9635-2 A1 Pt dt 24-3-41]

CNo. 12970, From Mrs. L. Chandramma Bai, Mangalore dt 1-4-41

The Commrs reply to Memo. No. 9635-1 A Pt dt 18-3-41 called for before 5-4-41 has not

been received. It seems desirable to obtain the remarks of the Collr. on the objections of Mrs. K. Chandramma Bai in her petition on pp 5-9 of. The draft memo. below is for approval.

K
4/4

WS
7/4

5.4.41

[Memo 9635-3 H.P.H of 8-4-41]

With reference to the orders in the P.O. Running Sheets, the reminder below is for approval.

K
24/4

WS
25/4

25.4.41

C No. 16080, From the residents of Pentlandpeth, Nandyal, of 22-4-41

This is only a copy of the petition addressed to the Collector. His reply to Memo. No. 9635-1 E. of 18-3-41 promised in his letter on p. 5 of may be awaited till 10-5-41.

K
30/4

30.4.41

O.M. No 9635-4 H P H 3/5/41
License-Flangulars Nl. el. cashewnut facings

The Collr is requested to submit his report at an early date.

WS
1/5

To the Collr. of S. Kanara
with ref: to his letter
No B-4-2298 of 3/4/41

urgent

pp 41-46 cf. From the Coll^r of S. Kanara No. 2298 Dy 6.V.41.

pp 47-48 cf. From Sri. Rao Sahib K. R. Tombat. Dy 10.

The case relates to the grant of licence to Messrs Aspin wall and Company for the carrying on of Cashew nut operations in T.S. No. 829 of the 5th Ward Mangalore Municipality.

2. The Mangalore Municipal Council has in its proceedings No. 5 of the 5th February 1941 pages 39-40 cf. resolved that immediate steps be taken to remove the 'factory' from the present locality to an industrial area as directed by the D.T.P. and to stop all burning operations in the 'factory'. The Comm^r has accordingly ordered the Company to stop all burning operations in the premises forthwith. The Company pages 1-4 cf. appealed to Govt. against these proceedings, and the Govt. thereupon granted interim

Memo on p. 12 cf.

56 4

interim stay of the proceedings -

3 The Collector who was asked to report has now submitted his report - pages 41 - 45 of the Company's appeal. The Coll:r's report raise the following chief points :—

(i) Whether a licence is necessary for the operations

(ii) Whether Govt. should interfere in the matter.

1st question

The Company makes out that no licence is necessary - This position is not correct for as stated by the Coll:r in paragraph 12 of his report the case will be covered by "items (2) (5) & (6) of Schedule V to the M.D.R. Act. It cannot be said that such mining operations are not an offensive trade. The Executive Authority's licence is certainly necessary -

p- 45 of.

notification is issued by the Govt. under S.24(6) of the MMR Act

2nd question

As

As regards the 2nd question it may at the outset be stated that under Section 249 (1) of the M. D. M. Act, 1920, the Council has power to notify that no place within municipal limits or within three miles of such limits shall be used for the purposes specified in Sch. V without the licence of the executive Authority ---. The Council has issued a notification under this provision - The Resolution of the Municipal No. 5 dated the 5th February 1941 which is now appealed against should be deemed to be in furtherance of the decision in the Council's notification - The executive Authority has taken action in accordance with the Council's Resolution. It cannot be stated that the proceedings of either the Council or the executive Authority can be considered to be illegal. [illegible] 249. 4. The Collector states that it would not be fair to

Contd.

18/

Compel the Company to shift its business altogether but that licence may be ordered to be granted subject to conditions regarding the use of fuel, size and type of chimneys etc — The Coll.r admits that the locality is a well-laid out and quiet residential area and that the residents of the locality value amenities — Attention is in this connection invited to the petition from the residents of the area in question on pages 19 – 24 cf. pointing out the disadvantages caused to them by the Cashew nut operations in the locality. As the processes connected with these operations are evidently offensive & are likely to cause nuisance it is a point for consideration whether they should be permitted to be carried on in a good residential locality as the petition shows. by very

paras 6-8 on pages 42-43 cf.

para 3 on pages 41-42 cf.

very respectable persons - Moreover if licence is ordered to be granted, it will be in contravention of the wishes of the Council & the proceedings of the Comm:. The proceedings of these authorities were apparently legal & were in pursuance of the recommendations of the D & M.S.O. page 38 of p. 27 of made in the interests of the public health of the town.

5. Incidentally the point is raised as to whether this is a case of factory within the meaning of Sections 250, 251 & 252 of the M. D.M. Act - As the Collector states that no power processes are used, this is evidently not a factory - It will be seen from these Sections that the employment of power processes should be established before the business is deemed a factory for purposes of the D.M. Act - It does not seem necessary to consider this point further -

para 5 on p-42 of & para 12 on p-45 of

p - 45 of B

6. Legal may see &.

bo/ 8

advise on the legal points involved —

WS 17/5.

Legal.

WS 5.5.41

Legal Department

Having regard to the finding of fact of the Collector at A on page 43, c.f., this Department agrees with him and E.P.H. that a licence is necessary in this case under section 249 of the District Municipalities Act read with clauses (r), (s) and (t) of Schedule V thereto.

E.P.H. Memo No: 963-1/17/5/Vgd.

ASSTT. SECRETARY-I
3215
20 MAY 1941
LEGAL DEPARTMENT

2. The question of granting or refusing a licence under section 249 or of the conditions to be imposed in the licence is a matter for the Commissioner in the first instance. An appeal from the decision of the Commissioner lies to the municipal council. So long as the Commissioner or the Council exercises his or its powers under the section not arbitrarily but in good faith in the interests of public health, it will not be possible for the Government to interfere with their action, for the case cannot be brought within the scope of section 36 of the District Municipalities Act. The mere fact that a licence was granted in previous years will not entitle the owner or occupier of the premises to the renewal of the licence as a matter of course. See Chowdappa Chetti v. President, Panchayat Board, Kariamangalam (1940) 2 M.L.J.1.

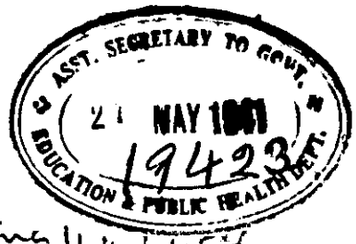
3. This Department agrees with E.P.H. that as no B on p.7 ante.

power processes are employed in the factory, it cannot be regarded as falling within the scope of section 250 of the District Municipalities Act.

K. VR
20/5/41

E.P.H.

Legal No. 3213-1
20.5.41.



E.P.H. (4)

In view of the above opinion of Legal it does not seem necessary to consider the question of asking the Commissioner to grant a licence to the Company subject to conditions. The stay orders on the memorandum paper of may be cancelled.

2. A draft order is submitted for approval.

22.5.41.

The Company's first objection is that the Municipality's action is illegal. On this point Legal state that the action is not illegal, that the case comes under clauses (r), (s) and (t) of Schedule of the District Municipalities Act, and that it is open to the Municipality to require the taking of a license under Section 249 of the District Municipalities

Act.

The second objection of the Company is that the Municipality's action is in contravention of Government's orders in Government Memorandum 8005-4 E.1 P.H., dated 12-6-1940. It may be stated that this order did not go into the details of each case, but made a general statement that the Government had no objection to the continuance of the 20 factories in their old locations subject to any conditions that the Municipality might think fit to impose under Section 251 The factory in question is No.2 in the list in (G). Section 251 does not apply to this case, as no power of any kind appears to be employed in this factory. Further Government did not have before them the full facts of this case wher (G) was issued. It is now seen that a considerable body of respectable citizens (a retired Collector and a Judge are found in their ranks) objects to the grant of the license. Therefore the order in (G) need not stand in the way.

The Company has admitted before the Collector that cashew shells are also used as fuel in the heating process which is necessary for the shelling and peeling which are two of the operations carried on in the factory. Any fire in a residential locality must be objectionable. A fire which uses cashew shells as fuel must be doubly so. Even assuming that the Company gives an undertaking or is given an order not to use cashew shells, the vigilant enforcement of the condition will be a difficult proposition. Proof that cashew shells were actually used will also be difficult. The tendency for the Company will always be to find a use for the useless by-product of cashew shells and thus save expenditure on fuel.

The Collector recommends that a license may be granted subject to certain conditions. But a

reading of the Collector's report shows that he felt that he had to make a recommendation not incompatible with the order in (G). For the reasons already given all fire in the factory may have to be prevented; but there seems to be no objection to the allowing of other processes (e.g.) packing etc.

In any case, Legal state that Government cannot legally interfere with the resolution of the Municipality refusing a license. Only advice can be given.

Therefore the Municipality may perhaps be advised to give a licence for all operations <u>not involving fire</u>. There can be no objection to this. The interim stay order may be cancelled.

A4

On the whole, I would not interfere. (Advice may be treated as an order & may lead to unexpected developments).

Read 31/5.

A draft order is submitted for approval

31.5.31

2/6.

To be substituted for G.O. of the same number and date

C.F. 17.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

Edn. & P. H. Dept. (H Sec.)

SUBJECT:—

Licence - Mangalore Municipality - Cashewnut operations of Messrs. Aspinwall & Co. at Urwa - Interference with the Council's decision - declined.

READ AGAIN ____, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

No. ____ From the Messrs. Aspinwall & Co. Ltd No. Petition dated 24-2- 19 41.

" ____ " Commr. Mangalore Municipality No. 1996- " 29-3- 19 41.

" ____ " Collr. of S. Kanara " 2298 " 6-5- 19 41.

Petition from Sir Rao Sahib K.R. Tombat 10.5.41

Order / ~~Resolution~~ / ~~Rout~~ Ms. No. 2352 dated 4. 6. 19 41.

The Government agree with the Collector of South Kanara that a licence is necessary under section 249 of the M.D.M. Act read with clauses (r), (s) and (t) of Schedule V to that Act in respect of the cashewnut operations carried on by Messrs. Aspinwall & Co., Mangalo

2. The proceedings of the Mangalore Municipal Council No.5 dated the 5th February 1941 and those of the executive authority dated the 14th February 1941 have been taken in accordance with the opinions of the Director o Town Planning and the Health authorities. Th Govt. are not prepared to interfere with these proceedings.

3. The direction in Memorandum No.9635-P.H., dated the 24th March 1941 is hereby cancelled.

To the Collector of South Kanara. (with records) (2)
" Commr., Mangalore Municipality thro' C.M.C.
To Messrs. Aspinwall & Co., Mangalore.
Copy to Sir Rao Sahib K.R. Tombat "Devadutt" Sir Habibullah S.C. Tyagarayanagar, Madras Road,

TO BE SUBSTITUTED FOR THE G.O. OF THE SAME NUMBER AND DATE. 67

Received. ..... 1941 Registered..... 1941

Abstract.

Licence - Mangalore Municipality - Cashewnut operations of Messrs. Aspinwall & Co. at Urwa - Interference with the Council's decision - declined.

Education & Public Health Department.

G.O.No.Ms.2352 dated 4th June 1941.

Read the following: -

From Messrs. Aspinwall & Coltd., Ms Petition dated 24th February 1941

From the Commissioner, Mangalore Municipality, No.1996 dated 29th March 1941

,, Collector of South Kanara No.2298 dated 6th May'41

Petitions from Sri Rao Sahib K. R. Tombat dated 10th May'41

ORDER:-

The Government agree with the Collector of South Kanara that a licence is necessary under section 249 of the Madras District Municipalities Act, read with clauses (r), (s) and (t) of Schedule V to that Act in respect of the cashewnut operations carried on by Messrs. Aspinwall & Co; Mangalore.

2. The proceedings of the Mangalore Municipal Council No.5 dated the 5th February 1941 and those of the executive authority dated the 14th February 1941 have been taken in accordance with the opinions of the Director of Town Planning and the Health authorities. The Government are not prepared to interfere with these proceedings.

3. The direction in Memorandum No.9635-2H P.H., dated the 24th March 1941 is hereby cancelled.

(By Order of His Excellency the Governor)

V. V. Subrahmanyam,
Deputy Secretary to Govt.

To the Collector of South Kanara.
,, Commissioner, Mangalore Municipality through Chairman, Municipal Council.
To Messrs. Aspinwall & Co; Mangalore.
Copy to Sri Rao Sahib K. R. Tombat,
"Devadutt" Sir Habibullah Road,
Tyagarayanagar, Madras.

True copy
Forwarded
By order.

Superintendent.